

PROSKAUER ROSE LLP
Robert J. Cleary (RC-5997)
Matthew S. Queler (MQ-6476)
1585 Broadway
New York, New York 10036
Tel: 212.969.3000
Fax: 212.969.2900

WINSTON & STRAWN LLP
Dan K. Webb (DW-7659)
(admitted *pro hac vice*)
J. David Reich (JR-8323)
35 W. Wacker Drive
Chicago, Illinois 60601-9703
Tel: 312.558.5600
Fax: 312.558.5700

Attorneys for Defendant
Frederic A. Bourke, Jr.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	:	
	:	
v.	:	
	:	
VIKTOR KOZENY,	:	05 Crim. 518 (RCC)
FREDERIC BOURKE, JR., and	:	
DAVID PINKERTON,	:	DECLARATION OF
	:	<u>STEVEN S. FLORES</u>
Defendants.	:	
	:	

STEVEN S. FLORES, pursuant to 28 U.S.C. § 1746, hereby declares under penalty of perjury as follows:

1. I am a member of the Bar of this Court and an associate with the law firm of Winston & Strawn LLP, co-counsel for defendant Frederic A. Bourke, Jr. in the above-captioned matter.
2. I submit this Declaration to provide the Court with facts and documents relevant to the accompanying Memorandum of Law In Support of Defendant Frederic A. Bourke, Jr.'s Motion For A Denial Of The Government's Proposed Severance Of Defendant Viktor Kozeny.

3. Upon information and belief, if Mr. Bourke and defendant David Pinkerton were tried together, the proof as to their alleged knowledge of, and participation in, the activities at issue in the indictment in this case would be separate and distinct. Perhaps as few as one common witness would testify regarding these issues.

4. Attached hereto as Exhibit A is a true and correct copy of a transcript of an October 13, 2006 hearing in this matter before the Honorable Richard C. Casey.

5. Attached hereto as Exhibit B is a true and correct copy of a transcript of an October 26, 2006 hearing in this matter before the Honorable Richard C. Casey.

6. Attached hereto as Exhibit C is a true and correct copy of a transcript of a February 24, 2006 hearing in this matter before the Honorable Richard C. Casey.

7. Attached hereto as Exhibit D is a true and correct copy of the Amended Defence of the First, Third, and Fourth Defendants, dated March 6, 2001, submitted to the High Court of Justice Queens Bench Division in *Omega Group Holdings Ltd., et al. v. Viktor Kozeny, et al.*, which appears to have been executed by Viktor Kozeny.

Dated: New York, New York
November 3, 2006

/s/ Steven S. Flores
By: Steven S. Flores (SF-7964)
Winston & Strawn LLP
200 Park Avenue
New York, New York 10166
(212) 294-6700